

TOWN OF FREDERICK, COLORADO
ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO,
REPEALING AND RE-ENACTING FREDERICK MUNICIPAL CODE
§10-221 THROUGH §10-227 REGARDING OFFENSES RELATED TO
FIREARMS AND WEAPONS, AND REPEALING FREDERICK
MUNICIPAL CODE §10-228 THROUGH §10-230.**

WHEREAS, the Board of Trustees finds that it is appropriate and necessary to revise the provisions of Chapter 10, Article XI regarding offenses related to firearms and weapons, and to repeal those provisions inconsistent with state statutory provisions; and

WHEREAS, the Board finds that the enactment of this ordinance is for the health, safety and welfare of the citizens of the town.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Chapter 10, Article XI, Sections 10-221, 10-222, 10-223, 10-224, 10-225, 10-226, and 10-227 of the Frederick Municipal Code are hereby repealed and re-enacted to read as follows:

Sec. 10-221. Definitions.

As used in this Article, the following words shall have the meanings ascribed below:

- (1) "Ballistic knife" means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.
- (2) "Blackjack" includes any billy, sand club, sandbag, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.
- (3) "Firearm" means any handgun, automatic revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges or other explosive charges, but does not include a BB gun, a paint ball gun or an air-soft gun.
- (4) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve inches.

(5) "Knife" means any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds, but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

(6) "Nunchaku" means an instrument consisting of two sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire, or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense.

(7) "Throwing star" means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

10-222. Peace officer affirmative defense.

It shall be an affirmative defense to any provision of this article that the act was committed by a peace officer in the lawful discharge of his or her duties.

10-223. Unlawfully carrying a concealed weapon; unlawful possession of weapons.

(a) A person violates this Section if such person knowingly and unlawfully:

(1) Carries a knife concealed on or about his or her person;

(2) Carries a firearm concealed on or about his or her person;

(3) Without legal authority, carries, brings, or has in such person's possession a firearm or any explosive, incendiary, or other dangerous device on the property of or within any building in which the chambers, galleries, or offices of the general assembly, or either house thereof, are located, or in which a legislative hearing or meeting is being or is to be conducted, or in which the official office of any member, officer, or employee of the general assembly is located.

(b) It shall not be an offense if the defendant was:

(1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying; or

(2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's person or property while traveling; or

(3) A person who, at the time of carrying a concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to C.R.S. §18-12-105.1, as it existed prior to its repeal, or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to the provisions of C.R.S. Title 18, Article 12, as amended; except it shall be an offense if the person was carrying a concealed handgun in violation of the provisions of C.R.S. §18-12-214, as amended;

(4) A peace officer, as described in C.R.S. §16-2.5-201, as amended, when carrying a weapon in conformance with the policy of the employing agency as provided in C.R.S. §16-1.5-101(2), as amended; or

(5) A United States probation officer or a United States pretrial services officer while on duty and serving in the State of Colorado under the authority of rules and regulations promulgated by the judicial conference of the United States.

(c) This section is declared to be a criminal violation. Upon conviction, the penalties set forth at Frederick Municipal Code §1-72(b) shall apply, except where the defendant is a juvenile at the time of the violation, in which case the penalties set forth at Frederick Municipal Code §1-73 shall apply.

10-224. Prohibited use of weapons.

(a) It is unlawful to:

(1) Knowingly and unlawfully aim or point a firearm in the direction of another person.

(2) Knowingly display or flourish a firearm in a manner calculated to alarm another person.

(3) Knowingly discharge a firearm within the jurisdictional limits of the town.

(4) Knowingly set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached, and leave it unattended by a competent person immediately present.

(5) Recklessly or with criminal negligence discharge any projectile from any bow, crossbow, slingshot, BB gun paintball gun or airsoft gun within the jurisdictional limits of the town, whether on private or public property.

(6) Have in one's possession a firearm while the person is under the influence of intoxicating liquor or of a controlled substance, as defined in C.R.S. §12-22-303(7), as amended. Possession of a permit issued under C.R.S. §18-12-105.1, as it existed prior to its repeal, or possession of a permit or a temporary emergency permit issued pursuant to the provisions of C.R.S. Title 18, Article 12, as amended, is no defense to a violation of this subsection.

(7) Knowingly aim, swing, or throw a throwing star or nunchaku as defined in this article at another person, or knowingly possess a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(b) This section is declared to be a criminal violation. Upon conviction, the penalties set forth at Frederick Municipal Code §1-72(b) shall apply, except where the defendant is a juvenile at the time of the violation, in which case the penalties set forth at Frederick Municipal Code §1-73 shall apply.

10-225. Possession of handguns by juveniles - prohibitions.

(a) Except as provided in this section, it is unlawful for any person under the age of eighteen years to knowingly have any handgun in such person's possession.

(b) This section shall not apply to:

(1) Any person under the age of eighteen years who is:

(A) In attendance at a hunter's safety course of firearms safety course; or

(B) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited; or

(C) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under 501(c)(3) as determined by the federal internal revenue service which uses firearms as part of such performance; or

(D) Hunting or trapping pursuant to a valid license issued to such person pursuant to C.R.S. title 33, Article 4, as amended; or

(E) Traveling with a handgun in such person's possession being unloaded to or from any activity described in subparagraph (A), (B), (C), or (D) of this subsection.

(2) Any person under the age of eighteen years who is on real property under the control of such person's parent, legal guardian, or grandparent and who has the permission of such person's parent or legal guardian to possess a handgun;

(3) Any person under the age of eighteen years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun for the purpose of exercising the rights contained in C.R.S. §18-1-704, as amended (entitled "Use of physical force in defense of a person") or C.R.S. §18-1-704.5, as amended (entitled "Use of deadly physical force against an intruder").

(c) For purposes of this section, a handgun is "loaded" if:

(1) There is a cartridge in the chamber of the handgun; or

(2) There is a cartridge in the cylinder of the handgun, if the handgun is a revolver; or

(3) The handgun and the ammunition for such handgun, is carried on the person of a person under the age of eighteen years or is in such close proximity to such person that such person could readily gain access to the handgun and the ammunition and load the handgun.

(d) This section is declared to be a criminal violation. Upon conviction, the penalties set forth at Frederick Municipal Code §1-73 shall apply.

10-226. Seizure of weapons.

Any police officer who has probable cause that a violation of this Chapter occurred may seize the weapon(s) or item(s) used in the violation. The seizure of any weapon(s) or other item(s) subject to a violation of this Chapter shall be in addition to any other action, including criminal prosecution. Any weapon or items seized shall be secured by the police officer in accordance with police department policies.

10-227. Forfeiture of weapons, firearms.

Upon the motion of the prosecuting attorney after conviction of a defendant, the court may order the forfeiture of any weapons or firearms used by the defendant during the course of the criminal episode which gave rise to said conviction as an element of sentencing or as a condition of probation or deferred sentence. Firearms forfeited under this section shall be disposed of pursuant to C.R.S. §16-13-311, as amended.

Section 2. Chapter 10, Article XI, Sections 10-228, 10-229, 10-230 of the Frederick Municipal Code are hereby repealed in their entirety.

Section 3. Effective Date. This ordinance shall be published and become effective as provided by law.

Section 4. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

Section 5. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof, in conflict with this ordinance are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS
____ day of _____, 2009.

TOWN OF FREDERICK

By: _____
Eric E. Doering, Mayor

ATTEST:

By _____
Nanette S. Fornof, Town Clerk